

REMARKS

A terminal disclaimer is submitted herewith to avoid any rejection of the claims under the judicially created doctrine of obviousness-type double patenting as being unpatentable over various claims of U.S. Patent No.: 6,714,513 (see claims).

The Examiner has rejected Claims 1-34 under 35 U.S.C. 102(b) as being anticipated by Fletcher et al., USPN 6,269,401. Applicant respectfully disagrees with this rejection, especially in view of the amendments made hereinabove.

Specifically, the Examiner relies on the following excerpt from Fletcher to make a prior art showing of applicant's claimed "map of the network." and "map of the network [which is] based on the network traffic information." (see subject matter of original Claims 5-6 et al., now incorporated into each of the independent claims.

"With reference now to FIG. 2, a diagram showing client computer system 110 coupled to server computer system 250 in communication network 205 is provided. In a typical communication network, there are a plurality of host computer systems, e.g., client computer systems and server computer systems, that are coupled to each other with communications equipment. For the discussion herein, a single client computer system 110 is shown coupled via communications lines 240 and 242 with a single server computer system 250, but more computer systems could be employed.

With reference still to FIG. 2, the software executed by central processor 101 (FIG. 1) of client computer system 110 is represented by application layer 210 which is separated from the remainder of protocol stack 220." (col. 5, line 57 through col. 6, line 1)

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The Examiner continues by stating that "Fletcher teaches generating a map of the network based on the network traffic information and transmitting the map to the zone controller." Such excerpt, however, does not even teach a report, let alone a "map of the network" that is "based on the network traffic information." Only applicant teaches and claim such a specific map for the purpose of analyzing a network, as claimed.

The Examiner is reminded that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. Of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, the identical invention must be shown in as complete detail as contained in the claim. *Richardson v. Suzuki Motor Co.* 868 F.2d 1226, 1236, 9USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

This criterion has simply not been met by the Fletcher reference. Nevertheless, despite these deficiencies and in the spirit of expediting the prosecution of the present application, applicant now claims in each of the independent claims:

"wherein enterprise latency mapping is performed, where at least one zone controller chooses a port number associated with an application and pushes a configuration request to a plurality of the information collector managers in an associated zone, and the information collector managers push the configuration requests to a plurality of the information collectors so that the information collectors begin to monitor a port associated with the port number, such that monitor data is sent from the information collectors to the information collector managers and buffered, whereafter the information collector managers update the at least one zone controller with consolidated monitor data, where differences in delay times are calculated to construct a picture of latency throughout an enterprise;

wherein intrusion detection services are provided based on the network traffic information" (or similar language).

A notice of allowance or a specific prior art showing of the foregoing limitations, in the specific context of the remaining claim limitations, is respectfully requested.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1351 (Order No. NAIIP061_01.303.01).

Respectfully submitted,
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